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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FOURTH APPELLATE DISTRICT

DIVISION TWO

THE PEOPLE,

Plaintiff and Respondent,

v.

ZINA ARELESHIA DANIELS,

Defendant and Appellant.

E046616

(Super.Ct.No. RIF125984)

OPINION

APPEAL from the Superior Court of Riverside County. Gloria Trask, Judge.

Affirmed.

Leonard J. Klaif, under appointment by the Court of Appeal, for Defendant and Appellant.

Edmund G. Brown, Jr., Attorney General, Gary W. Schons, Assistant Attorney General, and Collette C. Cavalier and Rhonda Cartwright-Ladendorf, Deputy Attorneys General, for Plaintiff and Respondent.

A jury found defendant and appellant Zina Areleshia Daniels¹ guilty of assault with a deadly weapon. (Pen. Code, § 245, subd. (a)(1).)² The jury also found that defendant personally inflicted great bodily injury on the victim (§§ 12022.7, subd. (a), 1192.7, subd. (c)(8)), and that she caused the victim to become comatose due to a brain injury or to suffer permanent paralysis (§ 12022.7, subd. (b)). At a bifurcated hearing, defendant waived a jury trial and court trial on two prior prison term allegations (§ 667.5, subd. (b)) and admitted the truth of the allegations. The trial court sentenced defendant to a total state prison term of 11 years.

On appeal, defendant contends the failure to advise her of her right to trial on the prior prison enhancement allegations renders her admissions on those allegations invalid. She argues the matter must be remanded for a new trial on the prior prison allegations. We affirm.

FACTUAL BACKGROUND

Defendant was upset with her boyfriend (the victim) and followed him in her car while he was walking to a store. She eventually ran over him with her car. The victim suffered a broken back, broken hip, bilateral fracture of his shoulder, a punctured lung, and broken ribs. In addition, his spinal cord was damaged, and he is now permanently paralyzed from the chest down.

¹ We note that throughout the record, defendant's name is referred to as Zina Daniels, Zina Areleshia Daniels, and Zina Arelesnia Daniels.

² All further statutory references will be to the Penal Code unless otherwise noted.

ANALYSIS

Defendant Was Adequately Advised of Her Right to Trial Prior to Admitting the Truth of the Prior Prison Enhancement Allegations

Defendant contends that her two prior prison enhancements under section 667.5, subdivision (b) must be reversed because of “the failure to advise [her] of the specifics of her right to a trial on the allegations.” Defendant’s claim is meritless.

A. Background

After the verdicts were read, the court discharged the jury and called a short recess. Following the recess, the court noted that the issue of the prison priors was bifurcated and then asked defense counsel to proceed. Defense counsel advised defendant, in open court, that she had the right to have a jury decide whether or not the allegations concerning the prison priors were true. Defense counsel then asked, “Is it your intention to waive not only your right to a jury trial on that issue but also a court trial and admit that both the first prison prior and the second prison prior are true?” Defendant replied, “Yes.” Defendant proceeded to specifically admit she was convicted of second degree burglary in 2000 and identity theft in 2001, and that she served a prison term, within the meaning of section 667.5, subdivision (b), on each of those convictions. The prosecutor said he was satisfied. The court found that defendant had knowingly, intelligently, and willingly “waived her constitutional rights in order to admit these prison priors.” The court added “And the court will accept her admission as to these.”

B. *The Advisement Was Adequate*

It is well settled that before a defendant pleads guilty to a crime, the trial court must advise the defendant of, and the defendant must waive, his or her *Boykin/Tahl* rights, i.e., the constitutional rights to silence, confrontation, and jury trial. (*Boykin v. Alabama* (1969) 395 U.S. 238; *In re Tahl* (1969) 1 Cal.3d 122, 130.) Likewise, before a defendant admits to the truth of an enhancement allegation, the trial court must advise the defendant of, and the defendant must waive, his or her *Boykin/Tahl* rights. (*In re Yurko* (1974) 10 Cal.3d 857, 863 (*Yurko*).)

In *People v. Mosby* (2004) 33 Cal.4th 353 (*Mosby*), the Supreme Court held that when, immediately after a jury verdict of guilty, a defendant admits a prior conviction after being advised of and waiving only the right to trial, that admission can be voluntary and intelligent, even though he was not told of, and thus did not expressly waive, his rights to remain silent and to confront witnesses. (*Id.* at p. 356.) The court must look at the totality of the circumstances surrounding the admission. (*Ibid.*)

Here, defendant asserts that “the failure to advise [her] of the specifics of her right to trial on the allegations renders the admission invalid,” but this claim is belied by the record. She was told on the record of her right to trial to determine the truth of the prior prison enhancement allegations. Furthermore, she expressly waived her right to trial. After waiving that right, she admitted the truth of the allegations. The court properly found that defendant had knowingly, intelligently, and willingly waived her constitutional rights in admitting the prior prison allegations.

At the end of her opening brief, defendant mentions that “[n]ot one word was said about . . . the right to confront one’s accusers, nor the right against self incrimination.” Although defendant was apparently not advised of her rights to remain silent and to confront witnesses immediately prior to admitting the truth of the prior prison enhancement allegations, there was no reversible error. Defendant was represented by counsel, and had *just* undergone a jury trial. Thus, she would have known of her right to remain silent at trial and to confront witnesses. (*Mosby, supra*, 33 Cal.4th at p. 364.) Additionally, “‘a defendant’s prior experience with the criminal justice system’ is, as the United States Supreme Court has concluded, ‘relevant to the question [of] whether he knowingly waived constitutional rights.’ [Citation.] That is so because previous experience in the criminal justice system is relevant to a recidivist’s “‘knowledge and sophistication regarding his [legal] rights.’” [Citations.]” (*Id.* at p. 365, fn. omitted.) Defendant had a long criminal history dating back to 1993, which included approximately seven felony convictions and five misdemeanor convictions. In view of her extensive experience with the criminal justice system, we can easily infer her understanding of her constitutional rights.

Under the totality of the circumstances, the trial court properly concluded that defendant voluntarily and intelligently waived her rights before admitting the truth of the prior prison enhancement allegations.

DISPOSITION

The judgment is affirmed.

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HOLLENHORST

J.

We concur:

RAMIREZ

P.J.

MCKINSTER

J.